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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION**

UBALDO HERERRA-HERNANDEZ,

A# 

Petitioner,


v.

WARDEN, EDEN DETENTION CENTER,
ACTING DALLAS FIELD OFFICE DIRECTOR,
U.S. Immigration & Customs Enforcement (ICE ERO);
KRISTI NOEM, Secretary of the U.S. Department of
Homeland Security; and PAMELA J. BONDI,
Attorney General of the United States,
In their official capacities,

Respondents.

§ Case No. 6:25-cv-00090
§
§ EMERGENCY PETITION
§ FOR WRIT OF HABEAS
§ CORPUS UNDER 28 U.S.C.
§ §2241 AND COMPLAINT
§ FOR INJUNCTIVE AND
§ DECLARATORY RELIEF
§
§ ORAL ARGUMENT
§ REQUESTED
§
§
§

INTRODUCTION & RELIEF REQUESTED

1. Petitioner Ubaldo Herrera-Hernandez (A# , a long-time resident of the United States with deep U.S. family and community ties, is civilly detained by ICE at Eden Detention Center, Eden, Concho County, Texas and threatened with removal. He has no criminal record, is the father of two U.S. citizen children, and his father is a Lawful Permanent Resident of the US (LPR). He has an I-130 approved 23 years ago and is within two years of earning a Visa. The Immigration Court has denied all requested administrative relief. He has been detained since July 2025. Respondents have failed to justify his

continuous incarceration by stating any reason specific to Petitioner as to why he is considered a flight risk or a danger to other Persons.

2. Petitioner's detention is unlawful and unconstitutional under the Due Process Clause and the Immigration and Nationality Act because, inter alia, it is excessive and non-individualized, and less restrictive alternatives can adequately mitigate any government interests.
3. Petitioner seeks a writ releasing him forthwith, or alternatively, an order requiring an immediate individualized custody hearing with appropriate burden/standard and consideration of ability to pay and alternatives to detention. He is in danger of being removed without final action on his I-130, and if removed, his I-130 approval revoked. His Master Hearing is set for December 2 and his Individual Hearing is set for December 9; therefore, time is of the essence for Declaratory Relief.

JURISDICTION

4. This action arises under the Constitution of the United States (Fifth Amendment) and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

7. Venue is proper in this District because Petitioner is detained at Eden Detention Center Eden, Texas, which is in the jurisdiction of this District and Division. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004); *Pack v. Yusuff*, 218 F.3d 448 (5th Cir. 2000).

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or issue an Order to Show Cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

10. Petitioner: UBALDO HERRERA-HERNANDEZ, A# [REDACTED]. He is currently jailed at Eden Detention Center in Eden, Texas. He is in the custody, and under the direct control, of Respondents and their agents.
11. Respondent Warden: PHILLIP VALDEZ, Warden, Eden Detention Center, is Petitioner’s immediate legal custodian.
12. Respondent Field Office Director: JOSHUA JOHNSON, Acting Dallas Field Office Director, ICE ERO, oversees Petitioner’s custody. Respondent Johnson is a legal custodian of Petitioner and has authority to release him.
13. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and


oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.

14. Respondent PAMELA J. BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

EXHAUSTION

15. There is no statutory exhaustion requirement for § 2241 claims; to the extent prudential exhaustion applies, it should be waived because administrative remedies are inadequate, futile, and would cause irreparable harm through continued unlawful detention. See, e.g., *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Laing v. Ashcroft*, 370 F.3d 994 (9th Cir. 2004).

FACTS

16. Petitioner is a 40-year-old native and citizen of Mexico, in removal proceedings in the El Paso Immigration Court, File No. A  He has two U.S. citizen children, his sister is a citizen, and his father is LPR. See Exhibit 1.
17. His sister sponsored his Form I-130, which was approved in 2005. He has been waiting for approval for 23 years and is within two years of his Visa Priority Date. See Exhibit 2.
18. Petitioner has no criminal record. On the contrary, he is a minister at Eisenhower Church of Christ in Odessa, Texas, whose members are paying the fees of counsel, and he is a valued, embedded member of the community with 25 letters endorsing his removal defense. See Exhibit 3.

19. In July, when checking in with ICE at his periodic appointment, which he has dutifully attended like clockwork for at least a decade, Petitioner was arbitrarily detained by ICE and sent to Bluebonnet Detention Center in Anson, Texas. *See* Exhibit 4.
20. Both of Petitioner's young boys, ages 12 and 10, have special needs, and his father is elderly and needs care, which is provided by Petitioner and his family. Petitioner is the "breadwinner" for his family, and they are dependent upon him for financial and psychological support.
21. For these reasons, on October 7 Petitioner filed an EOIR-42B application supported by extensive community evidence. *See* Exhibit 5. He is not subject to mandatory detention under 8 U.S.C. § 1226(c). In fact, release on bond, recognizance or other ATD are available remedies under § 1226(a).
22. Petitioner also ministers at Eisenhower Church of Christ in Odessa, Texas, and his congregation has been very supportive of his release, drafting no less than 25 letters in support of his continued presence in the US, specifically, in the Odessa, Texas community. *See* Exhibit 5.
23. This request for Release for Humanitarian Reasons was denied by the immigration judge. *See* Exhibit 6.
24. Following that denial, on October 27, Petitioner was moved to Eden Detention Center in Eden, Texas, located approximately 209 miles from counsel's office in Dallas, Texas, where he remains as of the date of this filing. *See* Exhibit 7. This distance has caused extreme hardship for his family and young children, and also burdens attorney-client access and litigation preparation. He has been incarcerated for nearly four months. This is a Person who

has never been arrested for a crime, poses no risk to anyone in society, and is wholly devoted to his family and his church. He is the exact opposite of a flight risk.

25. Petitioner's Master Hearing and Individual Hearing are set for December 2 and 9, respectively. *See* Exhibit 8.
25. Because Petitioner does not pose a danger or flight risk; less restrictive conditions (e.g., recognizance, reporting, or ATD) will reasonably assure appearance and public safety.
26. Petitioner also has an approved family-based I-130 visa petition, granted on [approval date], with a Mexico-chargeability priority date that, as of November 2025, is approximately six months from the Department of State's published cutoff for his category. This imminent visa availability further reduces any perceived flight risk and underscores Petitioner's strong incentive to comply with all proceedings and conditions of release.
27. Petitioner has provided substantial evidence of character and community ties, including twenty-five (25) letters attesting to his honesty, trustworthiness, and reliability, and documenting his deep commitment to his family, his church family at Eisenhower Church of Christ, the congregation to which he ministers, and the broader community.
28. Petitioner's ministerial role and consistent community service demonstrate extraordinary equities and support the availability and effectiveness of less-restrictive alternatives to detention.

INCORPORATION BY REFERENCE

29. Petitioner attaches the following Exhibits as a separate attachment both for this Emergency Writ and the accompanying Emergency TRO. Petitioner incorporates by reference all facts, declarations, and documentary exhibits contained therein as if set forth fully here:

Exhibit 1: Petitioner's Family Documents, including his children's and his sister's proof of citizenship, his father's LPR status, and Petitioner's approved I-130.

Exhibit 2: November 2025 US Department of State Visa Bulletin, which shows his nearing Priority Date.

Exhibit 3: 25 letters from his community.

Exhibit 4: Notice to Appear; Notice of Address Bluebonnet

Exhibit 5: EOIR-42B application

Exhibit 6: Denial of EOIR 42B

Exhibit 7: Notice of Address Eden

Exhibit 8: Master and Individual Hearing Settings; Notice of Additional Charges

CLAIMS FOR RELIEF

Count I

Statutory and Constitutional Due Process (Prolonged/Unreasonable Civil Detention)

30. Petitioner's continued detention—in fact, his detention at all-- without a timely, meaningful, and individualized custody assessment violates Fifth Amendment Due Process. In fact, ICE/EOIR states clearly in its charging documents that it has only considered three justifications for incarceration as though incarceration is required for all Persons. There is no mention of Alternatives to Detention (ATD) or release on recognizance, as if they do not exist. CE/EOIR have failed to consider non-detention alternatives and Petitioner's ability to pay. Therefore, detention is excessive relative to its purposes, which is to simply ask Petitioner to show up at his Individual Hearing.

Count II

Habeas (Unlawful Custody; Immediate Release or Bond Hearing with Proper Burden)

31. Under § 2241, Petitioner is entitled to release or, at minimum, a prompt custody hearing at which the Government bears the burden by clear and convincing evidence to prove danger or flight risk, with explicit consideration of less restrictive alternatives and ability to pay.

Respondents have not attempted to explain why they feel Petitioner is a flight risk or a danger to other Persons. They do not because they cannot.

Count III
All Writs/Equitable Relief (No Transfers/Retaliation; Maintain Jurisdiction)

32. To protect the Court's jurisdiction, Respondents should be enjoined from transferring Petitioner outside this District, retaliating for litigation, or removing him during pendency of his I-130 Priority Date and its finalization, or at least pendency of this case, absent further order.

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court:

- A. Grant the writ and order immediate release under reasonable conditions; or
- B. In the alternative, order an individualized bond hearing within 7 days before a neutral decision-maker, with the Government bearing clear and convincing burden and consideration of ability to pay and alternatives.
- C. Issue a Temporary Restraining Order and Order to Show Cause as detailed in the accompanying filing;
- D. Enjoin transfer/removal pending resolution of all of Petitioner's pending immigration proceedings.
- E. Enjoin Respondents from revoking Petitioner's I-130 approval even if he is removed;
- E. Award costs and such other relief as the Court deems just and proper.

Dated: November 8, 2025

/s/ Sean P. Cordobés

Sean P. Cordobés,

Attorney for Petitioner

TX State Bar No. 00792106

Admitted to the US District Court for the Northern District of Texas June 21, 1996

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